

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:09CR3117
	)	
v.	)	
	)	GOVERNMENT’S RESPONSE
TRAVES RUSH,	)	TO DEFENDANT’S MOTION
	)	FOR DOWNWARD VARIANCE
Defendant.	)	

The Defendant suggests he should receive a sentence not too dissimilar from the sentences imposed upon his co-defendants. Marcus Short received a 70 month sentence and Curtis Cotton received a 60 month sentence of imprisonment. Cotton, it should be remembered, received a lesser sentence because he cooperated with the government; he testified at trial against Mr. Rush and he stood ready to do so against Mr. Short. It should further be noted that neither Short nor Cotton are career offenders, as is Traves Rush; neither lied at trial, as did Traves Rush, and neither was the organizer or ring-leader of the bank robbery, as was Traves Rush. For these and other reasons, the sentence imposed on Traves Rush need not be comparable in any way to the sentences imposed on co-defendants Short and Cotton.

The Defendant also suggests a downward departure is appropriate generally, under 18 U.S.C. Section 3553(a) because the Defendant comes from a broken home and sort of drifted into a life of crime. It should be noted that in this day and age, it is actually common for children to grow up in a single parent home. The circumstances of the Defendant’s upbringing are not so unique as to constitute grounds for a lower sentence.

Additionally, the Defendant asks the Court to consider a lesser sentence on the basis of speculation; the Defendant, in his brief states that the bad decisions he has made in life “may have”

been influenced by hyperactivity. It is the Defendant's burden to establish legitimate grounds for a lesser sentence, and the Defendant does not meet his burden by asking the Court to engage in speculation of this nature.

The fact of the matter is, the Defendant deserves a stiff sentence because he is a menace to society. He is a career criminal who, less than three months ago, tried to evade being held accountable for a bank robbery he had committed by telling a practiced and calculated lie to a jury at his trial. He has not changed and shows no inclination to change. He will reoffend upon his release and this Court has a duty to protect society from criminals like the Defendant.

Respectfully submitted,

UNITED STATES OF AMERICA,

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United States Attorney, D.NE.

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CERTIFICATE OF SERVICE

I, Alan L. Everett, hereby certify that on August 5, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to John Vanderslice.

s/Alan L. Everett  
ALAN L. EVERETT #15387  
Assistant United States Attorney